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By: **Delegate Hammen**  
Introduced and read first time: January 21, 2002  
Assigned to: Environmental Matters

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Committee Report: Favorable with amendments  
House action: Adopted  
Read second time: February 12, 2002

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Nursing Homes - Notice of Closure - Penalties**

3 FOR the purpose of authorizing the Office of Health Care Quality in the Department  
4 of Health and Mental Hygiene to impose certain penalties on a nursing home  
5 when the nursing home closes without providing a certain notice within a  
6 certain period before closure; providing that the nursing home is subject to  
7 certain appellate procedures when a civil money penalty is imposed; and  
8 generally relating to penalties for failure to provide notice of the closure of a  
9 nursing home.

10 BY repealing and reenacting, with amendments,  
11 Article - Health - General  
12 Section 19-1406  
13 Annotated Code of Maryland  
14 (2000 Replacement Volume and 2001 Supplement)

15 BY repealing and reenacting, without amendments,  
16 Article - Health - General  
17 Section 19-1413  
18 Annotated Code of Maryland  
19 (2000 Replacement Volume and 2001 Supplement)

20 BY adding to  
21 Article - Health - General  
22 Section 19-1413.1  
23 Annotated Code of Maryland

1 (2000 Replacement Volume and 2001 Supplement)

2 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
3 MARYLAND, That the Laws of Maryland read as follows:

4 **Article - Health - General**

5 19-1406.

6 (a) Within 15 days of the request for an appeal by a nursing home, the nursing  
7 home shall deposit the amount of the civil money penalty in an interest bearing  
8 escrow account, the nursing home shall bear any cost associated with establishing the  
9 escrow account, and the account shall be titled in the name of the nursing home and  
10 the Department of Health and Mental Hygiene as joint owners.

11 (b) When the Secretary issues the final decision of the Department:

12 (1) If the decision upholds the imposition of the full civil money penalty,  
13 the escrow funds will be released to the Department within 15 days from the date of  
14 the decision;

15 (2) If the decision upholds the imposition of a civil penalty, but reduces  
16 the amount of the civil penalty, the amount due the Department will be released to  
17 the Department with accrued interest within 15 days of the date of the decision and  
18 the balance will be released to the nursing home within 15 days of the date of the  
19 decision; or

20 (3) If the decision reverses the imposition of the civil penalty, the escrow  
21 funds will be released to the nursing home within 15 days of the decision.

22 (c) (1) A hearing on the appeal shall be held in accordance with the  
23 Administrative Procedure Act, under Title 10, Subtitle 2 of the State Government  
24 Article.

25 (2) The Secretary shall have the burden of proof with respect to the  
26 imposition of civil money penalties under §§ 19-1404 OR 19-1413.1 of this subtitle.

27 (3) A decision shall be rendered by the Office of Administrative Hearings  
28 within 10 working days of the hearing.

29 (d) A nursing home is entitled to a 40% reduction in the amount of the civil  
30 money penalty if it waives its right to a hearing within 30 days of the Department's  
31 order.

32 19-1413.

33 Each nursing home shall:

34 (1) Establish a procedure to provide for the smooth and orderly transfer  
35 of residents in the event of closure;

1 (2) Provide a 30-day notice to residents and their families or guardians  
2 prior to closure of the nursing home unless the Department waives the notice  
3 requirement;

4 (3) Provide a 15-day notice to residents and their families or guardians  
5 prior to termination of public funding unless the Department waives the notice  
6 requirement; and

7 (4) Immediately notify, if known, a resident's family or guardian of:

8 (i) An accident involving the resident which results in injury and  
9 has the potential for requiring physician intervention;

10 (ii) A significant change in the resident's physical, mental, or  
11 psychosocial status; or

12 (iii) A need to alter the resident's treatment significantly.

13 19-1413.1.

14 ~~A PERSON WHO (A) A NURSING HOME THAT VIOLATES § 19-1413(2) OF THIS~~  
15 ~~SUBTITLE IS SUBJECT TO:~~

16 ~~(1) A FINE NOT EXCEEDING \$50,000; AND~~

17 ~~(2) THE COST OF REIMBURSING THE OFFICE OF HEALTH CARE QUALITY~~  
18 ~~FOR A CIVIL MONEY PENALTY NOT EXCEEDING EXPENSES INCURRED BY THE OFFICE~~  
19 ~~OF HEALTH CARE QUALITY IN ENSURING A SMOOTH AND ORDERLY TRANSITION OF~~  
20 ~~RESIDENTS, INCLUDING PAYROLL EXPENSES.~~

21 (B) IF A CIVIL MONEY PENALTY IS IMPOSED ON A NURSING HOME UNDER  
22 SUBSECTION (A) OF THIS SECTION, THE NURSING HOME IS SUBJECT TO § 19-1406 OF  
23 THIS SUBTITLE.

24 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
25 October 1, 2002.